

REMARKS/ARGUMENTS

In response to the Office Action mailed April 26, 2004, the applicants respectfully request reconsideration. In the Office Action, the drawings were objected to, claim 1 was objected to and claims 1-20 were subjected to a restriction requirement. By this amendment, the Specification, Fig. 3, and claim 1 have been amended.

Restriction Requirement

In response to the Restriction Requirement, Applicants hereby elect the claims of Group 1, claims 1-5 and 17-20, for examination in the present application. This election is made with traverse.

MPEP §803 states the following criteria for restriction between patentably distinct inventions:

- (A) The inventions must be independent or distinct as claimed; and
- (B) There must be a serious burden on the examiner if restriction is required.

The present application was filed on March 31, 1998. Therefore, it has been pending for over six years. Currently pending claims 1-16 are amended versions of the originally filed claims 1-16. Claims 17-20 were added in the previous amendment and have been included by the examiner in the Group 1 claims, along with claims 1-5.

During the course of six different Office Actions to date, only three different patents have been cited against the claims in only two different combinations: Ji et al. (5,889,943), Anglin et al. (5,862,322) and Ofek (6,092,066). Ji and Anglin have been cited since the first Office Action and Ofek was cited in the fifth Office Action.

For the examiner to determine at this point in the prosecution that the claims recite inventions that are independent or distinct is difficult to believe. Through five Office Actions the claims recited one invention. None of the amendments to the claims during the prosecution of the application changed the claims to the point where two independent or distinct inventions were being claimed. As the file history shows, each amendment made to the claims only slightly modified the claims each time. The amendments did not cause the claims to recite independent or distinct inventions.

Furthermore, at this point in the prosecution, there is no “serious burden” on the examiner. The searches have been done and the art has been applied. In applicants’ previous amendment, which addressed the rejection of all of claims 1-16 under 35 U.S.C. §103(a) as being unpatentable over Ji in view of Ofek, applicants prepared and submitted a response that, in applicants’ opinion, put the application in condition for allowance. The present Office Action, which includes objections to the drawings and claim 1, is a complete Office Action on the merits, and does not indicate that any of the claims are not allowable. According to MPEP §810.01, when “an action is given on the merits, *it must be given on all claims.*” (Emphasis in original). Therefore, the presumption is that all of claims 1-20 are allowable. Accordingly, there is no serious burden on the examiner that would merit a restriction requirement.

To the contrary, a restriction requirement at this point in the prosecution will place a serious time and cost burden on the applicants and will further delay the disposal of the application that has already been pending for six years.

Therefore, applicants assert that the restriction requirement is improper and should be withdrawn.

Objection to the Drawings

Fig. 3 was objected to on the basis that the element referred to by reference character 54 is “(EDM) SSL Connect” in the figure, but is called “STP or SSL Connect” in the Specification. Fig. 3 has been amended to delete “(EDM)” from the figure.

Fig. 3 was also objected to on the basis that the element referred to by reference character 60 is “storage sockets” in the figure, but is called “socket communication mechanism” in the Specification. The Specification has been amended, on lines 12 and 14 of page 16, to insert the term --storage-- before “sockets”. The sentence now reads, “In the preferred embodiment of the invention, communication mechanism 60 is a second set of storage sockets specially designed to facilitate communication through data storage system 14. In the preferred embodiment of the invention, the storage_sockets 60 are STP or SSLsockets, as described earlier.”

Applicants assert that the Specification is now in agreement with Fig. 3 and requests that the objection to Fig. 3 be withdrawn.

Fig. 4 was objected to on the basis that the element referred to by reference character 94 is “socket (2)(W.K.P.)” in the figure, but is called “socket opened” in the Specification. The Specification has been amended, on lines 6 and 7 of page 20, to indicate that, in step 94, another socket is created on the same W.K.P. as the previous socket. The “(2)” indicates that it is a different socket than the previously created socket.

Applicants assert that the Specification is now in agreement with Fig. 4 and requests that the objection to Fig. 4 be withdrawn.

Objection to the Claims

Claim 1 was objected to on the basis that the phrase “wherein, in” is redundant. Claim 1 has been amended to replace the term “wherein” with --and--. Applicant therefore requests that the objection to claim 1 be withdrawn.

Based on the foregoing amendments and remarks, the applicants assert that claims 1-20 are allowable over the prior art of record and respectfully request that a timely Notice of Allowance be issued in this application.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at 508.293.7835.

Stockenbergs et al.
09/052,325

Please charge any fees occasioned by this submission to Deposit Account
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Respectfully submitted,

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Date

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APPENDIX